

David J. Bradley, Clerk

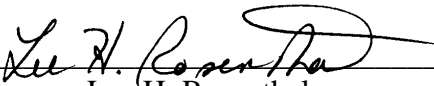
The court’s order established guidelines for Electrostim’s new amended complaint. (Docket Entry No. 145). The new complaint was to limit its factual basis to the 8,000 pretermination claims and 273 posttermination claims identified in the Blue Cross spreadsheets incorporated into the

second amended complaint; identify the claims in the Blue Cross spreadsheets that are ERISA claims and those that are non-ERISA claims; limit the factual basis for relief to the non-ERISA claims; clearly identify the claims from the spreadsheets that are rate-of-payment claims that are not foreclosed by the Fifth Circuit opinion; not plead claims under a third-party-beneficiary theory because amendment under that theory would be futile; and on its breach-of-contract claims, plead enough facts, with enough detailed information, to make those claims plausible.

In its proposed amended complaint, Electrostim alleges that it has created new spreadsheets that cross-reference individuals with the claims identified in the Blue Cross spreadsheets. (Docket Entry No. 150, Ex. 1 at p. 4). Electrostim has provided copies of the new spreadsheets to Blue Cross, but it did not file them with the court due to HIPAA restrictions, patient-privacy concerns, and the terms of the court's protective order. Electrostim indicated that it is willing to file the spreadsheets under seal or to provide a separate copy to the court.

Because the new spreadsheets are incorporated by reference in the proposed amended complaint, they are relevant to whether the complaint complies with the court's order and states a plausible claim for relief. Electrostim must file the unredacted spreadsheets under seal and file in the public records a redacted version that removes personal identifiers but is otherwise complete, by September 18, 2017.

SIGNED on September 11, 2017, at Houston, Texas.

  
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Lee H. Rosenthal  
Chief United States District Judge